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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/077,500
Filing Date: February 14, 2002
Appellant(s): TECU ET AL.

David W. Boyd
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 20, 2006 appealing from the Office action mailed May 30, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct.

Specifically, Appellant's arguments have been fully considered and they are persuasive as to claims 23 and 24. The claims 23 and 24 are no longer rejected over under 35 U.S.C. 103(a) over Tanaka in view of Matsui, and therefore the claims 23 and 24 are allowed.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

U.S. Patent Publication 20010043277	Tanaka et al.	11-2001
U.S. Patent Publication 20020048457	Matsui	4-2002
U.S. Patent 5198855	Iwai	3-1993
U.S. Patent 5920342	Umeda et al.	7-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-7, 11-13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka U.S. Publication 2001/0043277 in view of Matsui U.S. Patent 2002/0048457.

Referring to claim 1, the Tanaka reference discloses in Figures 4 and 12-13, a camera comprising a strobe (flash 5, see page 2, [0035]) for supplying light to a scene, the strobe

flashing throughout composition of a photograph (e.g., see page 11, [0173], during composition of a photograph, user presses the shutter button 9 to the half-pressed state S1, the flash 5 performs pre-light emission for a still image called a pre-light emission image; and the image of the subject is captured every 1/30 second by the CCD 303, see page 3, [0054]; in Figure 12, it also clearly shows at least two pre-light emission images captured by CCD during the pre-light emission period; and more than two frames of pre-light emission images are displayed on the EVF 20 or LCD 10 for composition of a photograph, **this is considered as** the strobe flashing throughout composition of a photograph, see page 11, [0173], lines 3-10. The live pre-light emission images displayed on the EVF 20 capable of assuring relatively high visibility in a dark environment, it becomes easy to check an image to be captured as finished image by using the EVF 20. See page 11, [0176]). However, the Tanaka reference does not explicitly state the strobe flashing **repeatedly** throughout the composition of a photograph.

The Matsui reference teaches in Figures 1-2, a camera comprising a electric flash device (100, see page 2, [0032]); the pre-flash (e.g., pre-flash prior to photographing by a camera) will be performed during composition of a photograph (see Abstract section) as shown in Figure 2; and the electric flash device (100) **repeats** the discrete flash including one flash or a plurality of flashes as pre-flash (page 4, [0064]). The Matsui reference is evidence that one of ordinary skill in the art at the time of the invention to see more advantages the electric flash device flashing repeatedly during the composition of a photograph so that the camera is capable of measuring the subject brightness accurately (e.g. evaluating image for preparing a final photograph is considered as composition of a photograph) even when the amount of the

light reflected from the subject is small. For that reason, it would have been obvious one having ordinary skill in the art at the time of the invention was made to modify the camera system of Tanaka ('277) by providing the strobe flashing repeatedly throughout the composition of a photograph as taught by Matsui ('457).

Referring to claim 2, the Tanaka and Matsui references disclose all subject matter as discussed in respected claim 1, and the Tanaka reference discloses a preview mode (during shutter button 9 to the half-pressed S1, pre-light emission image previewed on the electric view finder 20, see page 11, [0173]) wherein the strobe flashes repeatedly (e.g., see claim 1 comments, the Higuchi reference teaches the strobe flashing repeatedly, See, Page 4, [0064]).

Referring to claim 3, the Tanaka and Matsui references disclose all subject matter as discussed in respected claims 1-2, and the Tanaka reference discloses a user control by which the user selects the preview mode (e.g., user depress shutter button 9 to the half-pressed state for selects the preview mode, see page 11, [0173]).

Referring to claim 5, the Tanaka and Matsui references disclose all subject matter as discussed in respected claim 1, and the Tanaka reference discloses a light sensor (CCD image sensor 303, see page 2, lines [0043]), and comparison means (overall control unit 211) for comparing a light level measured with the light sensor to a threshold value (a predetermined value BV=3, page 11, [0180]), and wherein the camera enables strobe flashes during composition of a photograph when the light level is below the threshold value, and disables the strobe flashes throughout composition of a photograph when the light level is above the threshold value (e.g., the overall control unit 211 determines whether an image is to be

captured with a flash or not by comparing the detected the brightness of environment light, see page 11, [0170]).

Referring to claim 6, the Tanaka and Matsui references disclose all subject matter as discussed in respected claim 1, and the Tanaka reference discloses the camera comprising strobe electronics (a light control circuit) for driving the strobe, the strobe electronics having an energy storage capacity, each strobe flash during composition of a photograph dissipating less than all of the energy stored in the strobe electronics (e.g., the light control circuit 304 controlling the light emission amount of the built-in flash 5 may equal or less than the full energy stored in the flash 5 to meet a predetermined light emission amount, see page 3, [0047], lines 12-13; and the light emission amount for composition of photograph in preview mode are difference with normal light emission for capture a still image in final photograph mode which the shutter button full-pressed , see page 11, [0173], lines 13-14).

Referring to claim 7, the Tanaka and Matsui references disclose all subject matter as discussed in respected claims 1 and 6, the Tanaka reference discloses wherein the amount of strobe energy dissipated for one strobe flash is different from the amount of strobe energy dissipated for another strobe flash (e.g., it should be noted light emission amount for each of the images captured in preview mode may be difference depending on the brightness of subject change, a light control circuit 304 controls the light emission amount of the flash 5. See page 3, [0047]).

Referring to claim 11, the Tanaka reference discloses in Figures 4 and 12-13, a method of controlling a camera comprising flashing a strobe (flash 5, see page 2, [0035]) throughout composition of a photograph (e.g., see page 11, [0173], during composition of a photograph,

user presses the shutter button 9 to the half-pressed state S1, the flash 5 performs pre-light emission for a still image called a pre-light emission image or live view image; and the image of the subject is captured every 1/30 second by the CCD 303, see page 3, [0054]; in Figure 12, it also clearly shows at least two pre-light emission images captured by CCD during the pre-light emission period; and more than two frames of pre-light emission images are displayed on the ECF 20 for composition of a photograph, this is considered as flashing the strobe throughout composition of a photograph, see page 11, [0173], lines 3-10. The pre-light emission images displayed on the EVF 20 capable of assuring relatively high visibility in a dark environment, it becomes easy to check an image to be captured as finished image by using the EVF 20. See page 11, [0176]). However, the Tanaka reference does not explicitly state the strobe flashing **repeatedly** throughout the composition of a photograph.

The Matsui reference teaches in Figures 1-2, a camera comprising a electric flash device (100, see page 2, [0032]); the pre-flash (e.g., pre-flash prior to photographing by a camera) will be performed during composition of a photograph (see Abstract section) as shown in Figure 2; and the electric flash device (100) **repeats** the discrete flash including one flash or a plurality of flashes as pre-flash (See, Page 4, [0064]). The Matsui reference is evidence that one of ordinary skill in the art at the time of the invention to see more advantages the electric flash device flashing repeatedly throughout the composition of a photograph so that the camera is capable of measuring the subject brightness accurately even when the amount of the light reflected from the subject is small. For that reason, it would have been obvious one having ordinary skill in the art at the time of the invention was made to modify the camera

system of Tanaka ('277) by providing the strobe flashing repeatedly throughout the composition of a photograph as taught by Matsui ('457).

Referring to claim 12, the Tanaka and Matsui references disclose all subject matter as discussed in respected claim 11, and the Tanaka reference discloses the method further comprising the steps of: detecting a user control; and entering a preview mode in response to the detecting step (e.g., user depress shutter button 9 to the half-pressed state for selects the preview mode, see page 11, [0173]).

Referring to claim 13, the Tanaka and Matsui references disclose all subject matter as discussed in respected claims 11 and 12, and the Tanaka reference discloses further comprising the steps of: exiting the preview mode; and suspending the repeated flashes of the strobe (when the user full-pressed shutter button 9 for exiting the preview mode to capture a final still image, the strobe 5 flashes normally which means suspending the pre-light emission as repeated discrete flash taught by Higuchi reference, see page 11, [0173]).

Referring to claim 15, the Tanaka and Matsui references disclose all subject matter as discussed in respected claim 11, the Higuchi reference discloses preview photograph taken during composition of a final photograph in determining the proper strobe energy to use in taking the final photograph (e.g., at the time of the pre-flash, the photometry circuit 45 measures the amount of the light reflected from the subject; and obtains the information of subject brightness, the arithmetic and control circuit 41 performs an operation of an amount of light required for performing the light amount of actual-flash for the final photograph, see page 4, lines [0065]).

Referring to claim 16, the Tanaka and Matsui references disclose all subject matter as discussed in respected claim 11, and the Tanaka reference discloses the method further comprising dissipating less than all of the energy storage capacity of the strobe electronics with each flash of the strobe during composition of a photograph (e.g., the light control circuit 304 controlling the light emission amount of the built-in flash 5 may equal or less than the full energy stored in the flash 5 to meet a predetermined light emission amount, see [0047], lines 12-13; and the light emission amount for composition of photograph in preview mode are difference with normal light emission for capture a still image in final photograph mode which the shutter button full-pressed, see page 11, [0173], lines 13-14).

Referring to claim 17, the Tanaka and Matsui references disclose all subject matter as discussed in respected claims 11 and 16, the Tanaka reference discloses wherein the amount of strobe energy dissipated for one strobe flash is different from the amount of strobe energy dissipated for another strobe flash (e.g., it should be noted light emission amount for each of the images captured in preview mode may be difference depending on the brightness of subject change, a light control circuit 304 controls the light emission amount of the flash 5. See page 3, [0047]).

Referring to claim 18, the Tanaka and Matsui references disclose all subject matter as discussed in respected claims 11, the Tanaka reference discloses the method further comprising the steps of: measuring the scene lighting level using a light sensor (CCD sensor 303); and comparing the scene lighting level with a threshold value (a predetermined brightness value $BV=3$, see page 11, [0180]); and enabling the strobe flashes (flash 5) during composition of a photograph when the scene lighting level is below the threshold value and

disabling the strobe flashes during composition when the scene lighting level is above the threshold value (See page 11, [0170] and page 3, [0047])

Referring to claim 19, the Tanaka reference discloses in Figures 4 and 12-13, a camera comprising strobe means (flash 5, see page 2, [0035]) for supplying light to a scene; and electronics means (a light control circuit 304, see page 3, [0047]) for driving the strobe; and logic means (overall control unit 211, see page 11, [0170]) for controlling the strobe and electronics means, wherein the logic means (211) flashes the strobe throughout composition of a photograph performed by a user of the camera (e.g., see page 11, [0173], during composition of a photograph, user presses the shutter button 9 to the half-pressed state S1, the flash 5 performs pre-light emission for a still image called a pre-light emission image or live view image; and the image of the subject is captured every 1/30 second by the CCD 303, see page 3, [0054]; in Figure 12, it also clearly shows at least two pre-light emission images captured by CCD during the pre-light emission period; and more than two frames of pre-light emission images are displayed on the ECF 20 or LCD 10 for composition of a photograph, this is considered as flashing the strobe throughout composition of a photograph, see page 11, [0173], lines 3-10. The live pre-light emission images displayed on the EVF 20 capable of assuring relatively high visibility in a dark environment, it becomes easy to check an image to be captured as finished image by using the EVF 20. See page 11, [0176]). However, the Tanaka reference does not explicitly state the strobe flashing **repeatedly** throughout the composition of a photograph.

The Matsui reference teaches in Figures 1-2, a camera comprising a electric flash device (100, see page 2, [0032]), the pre-flash (e.g., pre-flash prior to photographing by a camera)

will be performed during composition of a photograph (see Abstract section) as shown in Figure 2; and the electric flash device (100) **repeats** the discrete flash including one flash or a plurality of flashes as pre-flash (See, Page 4, [0064]). The Matsui reference is evidence that one of ordinary skill in the art at the time of the invention to see more advantages the electric flash device flashing repeatedly during the composition of a photograph so that the camera is capable of measuring the subject brightness accurately even when the amount of the light reflected from the subject is small. For that reason, it would have been obvious one having ordinary skill in the art at the time of the invention was made to modify the camera system of Tanaka ('277) by providing the strobe flashing repeatedly throughout the composition of a photograph as taught by Matsui ('457).

Claim 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka U.S. Publication 2001/0043277 in view of Matsui U.S. Patent 2002/0048457 and Iwai U.S. Patent 5,198,855.

Referring to claim 4, the Tanaka and Matsui references disclose all subject matter as discussed in respected claims 1-3, and the Tanaka reference discloses the user selects the preview mode by depressing shutter button (9) to the half-pressed state (see Tanaka reference page 11, [0173]) and the strobe flashes repeatedly throughout the composition of a photograph (e.g., see claim 1 comments, the Matsui reference teaches the strobe flashing repeatedly, See, Page 4, [0064]). However, the Tanaka reference does not explicitly show the user control also has two setting, the first setting allows strobe repeatedly flashing and second setting stops strobe flash during the composition of a photograph (preview mode).

The Iwai reference teaches in Figure 2, an exposure compensation device of a camera for composition of a photograph comprising a user control device (a mode select switch 1, see Col. 3, lines 38-40); modes which can be selected by the user control device are five kinds. A first mode is an Auto mode for flashing an electronic flash device 3 automatically when field brightness is darker than a predetermined light value. A second mode is an ON mode for flashing the electronic flash device 3 regardless of the field brightness. A third mode is an OFF mode for prohibiting a flashing of the electronic flash device 3, etc (See Col. 3, lines 40-50). The Iwai reference is evidence that one of ordinary skill in the art at the time of the invention to see more advantages the user control has at least two settings, one for allowing a flashing of the flash device repeatedly (ON mode) and second for prohibiting a flashing of the flash device regardless the field brightness (OFF mode), so that user has more flexible options to control the flash device associating with composition of a photograph. For that reason, it would have been obvious one having ordinary skill in the art at the time of the invention was made to modify the camera system of Tanaka ('277) by providing a user control that includes two setting, in response to the first setting of the user control, the strobe flashes repeatedly throughout the composition of a photograph; and in response to a second setting of the user control, the strobe does not flash during the composition of a photograph as taught by Iwai ('855).

Referring to claim 14, the Tanaka and Matsui references discloses all subject matter as discussed in respected claims 11-12, and the Tanaka reference discloses the user selects the preview mode by depressing shutter button (9) to the half-pressed state (see Tanaka reference page 11, [0173]) and the strobe flashes repeatedly during the composition of a photograph

(e.g., see claim 1 comments, the Matsui reference teaches the strobe flashing repeatedly, See, Page 4, [0064]). However, the Tanaka reference does not explicitly show the user control also has two setting, the first setting allows strobe repeatedly flashing and second setting stops strobe flash throughout the composition of a photograph (preview mode).

The Iwai reference teaches in Figure 2, an exposure compensation device of a camera for composition of a photograph comprising a user control device (a mode select switch 1, see Col. 3, lines 38-40); modes which can be selected by the user control device are five kinds. A first mode is an Auto mode for flashing an electronic flash device 3 automatically when field brightness is darker than a predetermined light value. A second mode is an ON mode for flashing the electronic flash device 3 regardless of the field brightness. A third mode is an OFF mode for prohibiting a flashing of the electronic flash device 3, etc (See Col. 3, lines 40-50). The Iwai reference is evidence that one of ordinary skill in the art at the time of the invention to see more advantages the user control has at least two settings, one for allowing a flashing of the flash device repeatedly (ON mode) and second for prohibiting a flashing of the flash device regardless the field brightness (OFF mode), so that user has more flexible options to control the flash device associating with composition of a photograph. For that reason, it would have been obvious one having ordinary skill in the art at the time of the invention was made to modify the camera system of Tanaka ('277) by providing a user control that includes two setting, in response to the first setting of the user control, the strobe flashes repeatedly throughout the composition of a photograph; and in response to a second setting of the user control, the strobe does not flash during the composition of a photograph as taught by Iwai ('855).

Claim 8-10 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka U.S. Publication 2001/0043277 in view of Matsui U.S. Patent 2002/0048457 and Umeda U.S. Patent 5,920,342.

Referring to claim 8, the Tanaka and Matsui references disclose all subject matter as discussed in respected claim 1, the Tanaka reference discloses an electronic array light sensor (CCD sensor 303, see page 3, [0043]); and a logic unit (overall control unit 211, see page 11, [0170]) that controls the electronic array light sensor (303) and receives image data from the electronic array light sensor; and a display (electric view finder 220) that displays an image under control of the logic unit; wherein the camera takes and displays preview photographs repeatedly on the display during composition of a final photograph by the user, and wherein the camera flashes the strobe for preview image (e.g., during composition of a final photograph, the shutter button 9 to the half-pressed state S1, the flash 5 performs pre-light emission once for each still image called a pre-light emission image; and the image of the subject is captured every 1/30 second by the CCD 303, see page 3, [0054], this means a plurality of the pre-light emission images are repeatedly previewed on the electric view finder 20 at least a predetermined period T1 as shown in Figure 12, see page 11, [0173], lines 3-10. The flash 5 performs pre-light emission once for each frame pre-light emission image; and the each of the live pre-light emission images displayed on the EVF 20 capable of assuring relatively high visibility in a dark environment, it becomes easy to check an image to be captured as finished image by using the EVF 20, see page 11, [0176]). However, the

Tanaka reference does not explicitly states camera flashes the strobe **once for each** preview image.

The Umeda reference teaches in Figure 28, the camera head (10) has a built-in flash unit (76). The flash unit is fired timing at every image capture, e.g., an image is captured four times as preview images used for composition of a high resolution image as final photograph (See Col. 14, lines 17-21). The Umeda reference is evidence that one of ordinary skill in the art at the time of the invention to see more advantages the camera flashes the strobe one for each captured preview image so that all the preview images have a the same conditions for light intensity for creating a high resolution final photograph. For that reason, it would have been obvious one having ordinary skill in the art at the time of the invention was made to modify the camera system of Tanaka ('277) by providing the strobe **once for each** preview image as taught by Umeda ('342).

Referring to claim 9, the Tanaka, Matsui and Umeda references disclose all subject matter as discussed in respected claims 1 and 8, and the Higuchi reference states the flash duration of the discrete flash is approximately 1mS (See page 1, [0008]); when the light reflected from the subject is small, the flash device **repeats** the discrete flash as pre-flash for composition of a photograph (as preview image); and the Tanaka reference discloses the image of the subject is captured every 1/30 S by the CCD 303 for previewing, see page 3, [0054]. This means the camera flashes the strobe more often than once for each preview image when the amount of the light reflected from the subject is small.

Referring to claim 10, the Tanaka, Matsui and Umeda references disclose all subject matter as discussed in respected claims 1 and 8-9, and the Higuchi reference discloses at least

one of the preview images uses a different number strobe flashes than another preview image (e.g., if when the amount of the light reflected from the subject is small, a plurality of flashes are repeated; and if when the amount of the light reflected from the subject is large, only a one flash is used. This means at least one of the preview images that used for measuring the subject brightness may use a different number strobe flashes than another preview image based on the whether a sufficient light amount is capable of being obtained, See page 4, [0064], lines 7-13).

Referring to claim 20, the Tanaka, Matsui and Umeda references disclose all subject matter as discussed in respected with same comments to claims 8 and 11.

Referring to claim 21, the Tanaka, Matsui and Umeda references disclose all subject matter as discussed in respected with same comments to claims 9 and 20.

Referring to claim 22, the Tanaka, Matsui and Umeda references disclose all subject matter as discussed in respected with same comments to claims 10 and 21.

Allowable Subject Matter

Claims 23 and 24 are allowed.

(10) Response to Argument

For claims 1-22, the appellant argues that the both Tanaka reference (U.S. Patent Publication 2001/0043277) and Matsui reference (U.S. Patent Publication 2002/0048457) do not teach or suggest a camera strobe repeatedly throughout

composition of a photograph, because as appellant has explained at page 5 of the specification, composition of photograph “may begin when the photographer begins using the viewfinder or display to view the scene and evaluated camera positions for compositional quality.” Composition “typically ends when the photographer indicates, for example fully depressing the shutter release, that he or she wishes the camera to initiate its final photograph taking sequence and take a final photograph.” (See Appellant’s Argument section, page 4, line 19- page 8, line 29)

The examiner disagrees. The examiner understands the appellant disclose in the page 5 of the specification. However, the claims 1, 11 and 19 do not require those limitations for defining the period of composition of a photograph, in other words, the claims do not require the “composition of a photograph” as the camera flashing the strobe repeatedly throughout an interval beginning after a time when the shutter release reaches the partially depressed position (begins preview mode) and ending at a time when the shutter release reaches the fully depressed position. The language in the claims 1, 11 and 19 written broadly enough to allow the examiner to interpret “composition of a photograph” as to preview one image on display or evaluate one live view image for preparing a final photograph.

The Tanaka reference discloses in page 11, [0173], during composition of a photograph, user presses the shutter button (9) to the half-pressed state S1, the flash (5) performs pre-light emission for a still image called a pre-light emission image (e.g., preview image or live view image); and the image of the subject is captured every 1/30 second by the CCD (303), see page 3, [0054]; in Figure 12, it also clearly shows **at least**

two pre-light emission images captured by CCD during the pre-light emission period; and more than two frames of pre-light emission images are displayed on the EVF 20 or LCD 10 for composition of a photograph, this is considered as **the strobe flashing throughout composition of a photograph**, see page 11, [0173], lines 3-10. The live pre-light emission images displayed on the EVF 20 capable of assuring relatively high visibility in a dark environment, it becomes easy to check an image to be captured as finished image by using the EVF 20. See page 11, [0176].

The reason for combining the Matsui reference with Tanaka reference is showing evidence the pre-light emission including a plurality of flashes repeatedly (See page 4, [0064]) as known in the camera art. The Matsui reference also teaches in Figure 2 the flashes (pre-flashes prior to photographing by a camera) continue throughout composition of a photograph until determining a condition of a right amount of light for performing an actual-flash when the photographing by the camera is performed (See page 4, [0064]). The Matsui reference is evidence that one of ordinary skill in the art at the time of the invention to see more advantages the electric flash device flashing repeatedly during the composition of a photograph so that the camera is capable of measuring the subject brightness accurately even when the amount of the light reflected from the subject is small. For that reason, it would have been obvious one having ordinary skill in the art at the time of the invention was made to modify the camera system of Tanaka ('277) by providing the strobe flashing **repeatedly** throughout the composition of a photograph as taught by Matsui ('457).

Art Unit: 2622

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

LY

August 17, 2006

Conferees:

David Ometz, SPE 2622

Vivek Srivastava, SPE 2622

HEWLETT-PACKARD COMPANY

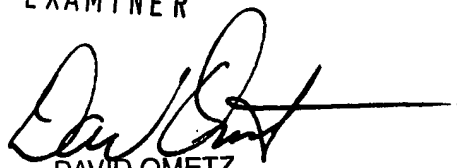
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